

1 paragraph, be withdrawn.

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3 Having distinguished the independent Claims, applicant
4 respectfully submits that the Claims dependent thereon,
5 Claims 2-6, and 17-18, also define patentable subject
6 matter, and that the rejections of these Claims also be
7 withdrawn.

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9 **Claim Rejections: 35 U.S.C. §102**

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11 Claims 1-5, 7, 19 and 20 are rejected under 35 U.S.C.
12 102(b) as being anticipated by Huey (3,727,309). Huey shows
13 a denture comprising a U-shaped tray 28 including outer
14 walls, inner walls, a channel between the inner walls, a
15 flange formed by the meeting of the inner and outer walls,
16 and a tooth receiving portion. A plurality of teeth 10 are
17 located in the tooth receiving portion and the denture also
18 comprises a layer of gum receiving material 50 applied to
19 the inner walls and flange. The gum receiving member is
20 deformable when subjected to a temperature of about 140-150
21 degrees F, the gum receiving member conforming to the
22 configuration of a gum received within the member (column 6,
23 first paragraph).

24
25 Regarding Claims 1, 7, 19 and 20, Applicant
26 respectfully submits that Huey is not a proper reference
27 under 35 U.S.C. §102(b). To be a proper reference under 35
28 U.S.C. §102(b), the reference must teach every aspect of the
29 claimed invention either explicitly or impliedly, and any
30 feature not directly taught must be inherently present.

1 MPEP 706.02.

2
3 These Claims, as amended, recite subjecting the denture
4 to water having a temperature greater than ambient
5 temperature but less than 100 degrees C; no such teaching is
6 present in the reference. Therefore, because Huey fails to
7 teach every aspect of the claimed invention, either
8 explicitly or impliedly, it is not a proper reference under
9 35 U.S.C. §102(b), and accordingly, Applicant respectfully
10 requests that the rejection of Claims 1-5, 7, 19 and 20 be
11 withdrawn.
12

13 Basis for the amendments to Claims 1, 7, 19 and 20 is
14 found in the specification at p. 11, lines 1 - 24. The
15 amendment to Claim 4 is to clarify its language in view of
16 the amendment to Claim 1.
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18 Regarding Claim 19, Applicant respectfully submits that
19 Huey is not a proper reference under 35 U.S.C. §102(b). To
20 be a proper reference under 35 U.S.C. §102(b), the reference
21 must teach every aspect of the claimed invention either
22 explicitly or impliedly, and any feature not directly taught
23 must be inherently present. MPEP 706.02.
24

25 Claim 19 recites an upper denture comprising a
26 generally U-shaped tray that lacks a palate (last line of
27 Claim 19). The reference describes an upper denture,
28 including palate receiving member 42 (Fig. 3; col. 5, lines
29 33 - 51), an element specifically not a part of the claimed
30 invention. Therefore, because the reference does not

1 disclose all of the elements of the claimed invention,
2 explicitly or impliedly, Applicant respectfully submits that
3 Huey fails as a reference under 35 U.S.C. §102(b) in regards
4 to Claim 19, and requests that the rejection of this Claim
5 be withdrawn.

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7 **Claim Rejections: 35 U.S.C. §103**
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9 Claims 8-15 were rejected under 35 U.S.C. §103(a) as
10 being unpatentable over Huey (3,727,309) in view of Cialone
11 (4,521 193). Huey does not teach the use of a biting force
12 to fit the denture. Cialone teaches a method of forming a
13 denture and liner wherein a biting force is applied to the
14 denture to form the denture to the impression of the gum
15 (col. 4, lines 11-15). The Examiner alleges it would have
16 been obvious to one of ordinary skill in the art at the time
17 the invention was made to use a biting force to form the gum
18 receiving member of Huey in view of Cialone, in order to
19 provide a more accurate fit of the gum receiving member.
20

21 Applicant respectfully traverses these rejections. To
22 reject a claimed invention based upon its obviousness over
23 the prior art, the examiner must support such a rejection by
24 establishing the invention's prima facie obviousness. The
25 examiner must show where in the art cited there is a
26 description of the claimed invention sufficient to have
27 taught or suggested the invention to ordinarily skilled
28 artisans of the time (see, e.g., ACS Hospital Systems, Inc.,
29 v. Montefiore Hospital, 221 USPQ 929, 933 (F. Cir. 1984);
30 see also, In re Fine, 5 USPQ2d 1596 (F. Cir. 1988)).

1 Evaluation of whether the cited documents provide the
2 necessary description requires consideration of "(1) whether
3 the prior art would have suggested to those of ordinary
4 skill in the art they should make the claimed [invention]
5 ... and (2) whether the prior art would have also revealed
6 that in so making ... those of ordinary skill would have a
7 reasonable expectation of success" (In re Vaeck, 20 USPQ2d
8 1438, 1442 (F.Cir. 1991)). "Both the suggestion and the
9 reasonable expectation of success must be found in the prior
10 art, not in the applicant's disclosure" (In re Vaeck,
11 supra). That is, "one cannot use hindsight reconstruction
12 to pick and choose amongst isolated disclosures in the prior
13 art to deprecate the claimed invention" (In re Fine, supra
14 at 1600).

15
16 In response, Cialone places the denture in a patient's
17 mouth, and having the patient bite until a distance
18 corresponding to that determined earlier by measuring
19 reference points on the patient's nose and chin is reached.
20 The denture is then removed, smoothed and trimmed (col. 4,
21 lines 11-23). Claim 8 as originally filed describes using a
22 biting force to effect a comfortable fit of the denture in
23 the patient's mouth; the language of Claims 8 and 9 has been
24 incorporated into amended Claim 7. All that the combination
25 of Cialone and Huey teach is fitting a denture to a
26 distance, and Applicant submits that one skilled in the art
27 knows that merely fitting a denture to measurements does not
28 always provide a comfortable fit, as further fitting is
29 often necessary. Therefore, because one skilled in the art
30 at the time of the invention would not have looked to the

1 combination of Cialone in view of Huey, Applicant
2 respectfully submits that amended Claim 7 would not have
3 been obvious to one of ordinary skill in the art at the time
4 the invention was made and therefore, Claim 7 defines
5 patentable subject matter. The Examiner is respectfully
6 requested to withdraw the rejections.

7
8 Basis for the amendment to Claim 7 is Claims 8 and 9 as
9 originally filed, and p.12, lines 1-12, and particularly p.
10 12, line 33 - p. 13, line 6, of the specification,
11 indicating the inventive denture fits without the discomfort
12 attributed to dentures made from other types of materials.

13
14 Claims 8-9 have been cancelled without prejudice to
15 avoid being duplicative, because their language has been
16 incorporated into amended Claim 7.

17
18 Claim 6 was rejected under 35 U.S.C. §103(a) as being
19 unpatentable over Huey (3,727,309) in view of Masuhara et
20 al. (4,484,894).

21
22 Claim 6 has been cancelled without prejudice solely to
23 facilitate the prosecution of this application.

24
25 Claims 16-18 were rejected under 35 U.S.C. §103(a) as
26 being unpatentable over Huey (3,727,309) in view of Ginsburg
27 et al. (5,775,900).

28
29 Claims 16 - 18 have been cancelled without prejudice
30 solely to facilitate the prosecution of this application.

1 **Information Disclosure Statement**

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3 An information disclosure statement, including a copy
4 of the U.S. Patent and Published Patent Applications cited
5 therein, is attached hereto.

6
7 **Conclusion**

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9 Thus, the present pending Claims distinguish over the
10 prior art and define patentable subject matter.

11
12 Applicant thanks the Examiner for his thoughtful review
13 of this application, and respectfully requests the Examiner
14 review the pending Claims and to find that they define
15 patentable subject matter. Thus, it is respectfully
16 requested that the present pending Claims be allowed.

17
18 In the event that this Amendment does not place the
19 application in condition for allowance, the Examiner is
20 respectfully requested to telephone the undersigned in order
21 that an attempt can be made to place the application in
22 condition for allowance as expeditiously as possible.

23
24 Respectfully submitted,

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